



1. Claimant worked in respondent's machine shop using a drill press drilling parts for farm equipment. She also used a grinder to debur parts. Use of the drill press required that she pull a handle from overhead with her right arm. Use of the grinder required that she twist and turn her right wrist.

2. In July 1996, claimant suffered injury while operating the drill press. She testified that as she was pulling the handle down, she felt sharp pains going through her fingertips up into her arm, shoulder, and neck. The parties have stipulated to a July 23, 1996, date of accident.

3. Claimant had problems in the same areas before the injury of July 1996. She had treated with W. Reese Baxter, M.D., beginning in 1989 for right shoulder and right arm pain. The records of Dr. Baxter's treatment also mention mid back, upper back, and neck symptoms. Claimant testified that on all prior occasions the problems went away after treatment. After the injury in July 1996, the pain persisted and, in fact, got worse.

4. Claimant also treated initially with Dr. Baxter after the injury of July 1996, and Dr. Baxter eventually referred claimant to Dr. Dan E. Wilson, Jr. Neither of the treating physicians testified, but their records were introduced by stipulation. The treatment, including claimant's symptoms, is set out in detail in the Award by the ALJ. The Board adopts as its own the ALJ's findings regarding the complaints and treatment.

5. Dr. Philip R. Mills evaluated claimant's injury at the request of respondent's counsel. He concluded she had right wrist tendinitis and possibly mild early carpal tunnel syndrome. He also diagnosed shoulder myofascial pain syndrome. He rated the impairment as 10 percent of the right upper extremity based on mild carpal tunnel syndrome. He found a normal range of motion in the neck. Dr. Mills defined the shoulder girdle to include the muscles of the shoulder, including the trapezius, levator scapula, the rhomboids, the deltoids, and associated musculature.

6. Dr. Zita Suprenant evaluated claimant's injury at the request of claimant's counsel. She diagnosed chronic regional myofascial pain syndrome due to right trapezius and right scapulocostal myofascitis and mild right carpal tunnel syndrome. She assigned an impairment rating for the mild carpal tunnel of 10 percent of the right upper extremity and for the myofascial pain syndrome she assigned a rating of 4 percent of the whole body. She rated the impairment as a cervical and thoracic strain.

### **Conclusions of Law**

1. Claimant has the burden of proving his/her right to an award of compensation and of proving the various conditions on which that right depends. K.S.A. 44-501(a).

2. K.S.A. 1996 Supp. 44-510d(13) provides for a maximum of 225 weeks of benefits for injury to the shoulder joint, shoulder girdles, shoulder musculature, or other shoulder structure.
3. General body injuries, injuries not covered by the schedule in K.S.A. 44-510d, entitle the injured worker to a maximum of 415 weeks and potential work disability. K.S.A. 1996 Supp. 44-510e.
4. The Board concludes claimant's injury was the upper extremity, including the shoulder musculature, and was not a general body injury. Of the two evaluating physicians, the Board finds Dr. Mills' testimony most convincing. The Board does not, by limiting this case to the schedule, agree with the argument that all of the trapezius muscle should be considered to be the shoulder. The Board acknowledges claimant made complaints, principally complaints of pain, beyond the shoulder. The Board finds, however, that these complaints did not constitute a functional impairment. The only functional impairment was to the upper extremity, including the shoulder.

**AWARD**

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Award entered by Administrative Law Judge Bruce E. Moore on July 20, 1998, should be, and the same is hereby, affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of March 1999.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

c: Jan L. Fisher, Topeka, KS  
Kurt W. Ratzlaff, Wichita, KS  
Bruce E. Moore, Administrative Law Judge  
Philip S. Harness, Director